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In this chapter . . .

This chapter discusses the restrictions on access to records of adoption proceedings. It also contains discussion of the procedures required for the release of information identifying a former parent, adoptee, or adoptee's sibling.

Confidential intermediaries may be utilized to determine the location of former family members, adult adoptees, or adult children of deceased adult adoptees. Section 9.7 discusses the qualifications and responsibilities of confidential intermediaries, including compensation for services and sanctions for failure to perform responsibilities.

9.1 Restrictions on Access to Records of Proceedings

Records of adoption proceedings and the papers and books relating to the proceedings must be kept in separate locked files and must not be open to inspection or copying except as provided below. MCL 710.67(1). MCL 710.67(1) specifically provides that the notice of intent to claim paternity filed pursuant to MCL 710.33(1) and a petition for notice of intent to release or consent filed pursuant to MCL 710.34(1) are a part of the records of an adoption proceeding. See Section 3.5 for information on notice of intent to claim paternity. See Section 3.6 for information on notice of intent to release or consent.

MCL 710.67(1) provides that 21 days after the court enters a final order of adoption, the court may not permit copying or inspection of the records of that case, except in the following circumstances:

- ♦ the children’s ombudsman is conducting an investigation authorized under the Children’s Ombudsman Act, MCL 722.921 et seq.,
- ♦ the release of the information is authorized pursuant to MCL 710.68,* or
- ♦ the court grants a petition for the inspection and copying of the records of an adoption proceeding.*

*See Section 9.5 for information on MCL 710.68.

*See Section 9.6 for information on petitions for inspection of adoption proceedings.

9.2 Disclosure of Biological or Adoptive Parents’ Names

A person in charge of adoption records is prohibited from disclosing the biological or adoptive parents’ names, except in the following circumstances:

- ♦ he or she is ordered to do so by the court,*
- ♦ the children’s ombudsman is conducting an investigation authorized under the Children’s Ombudsman Act, MCL 722.921 et seq.,
- ♦ to meet the requirements of the Director of Public Health for the purpose of creating a new birth certificate in the adoptive name and sealing the original birth certificate,* or
- ♦ the release of information is authorized pursuant to MCL 710.68.*

*See Section 9.6.

*See Section 6.5 for information on new birth certificates.

*See Section 9.5 for information on MCL 710.68, which governs the release of nonidentifying and identifying information.

MCL 710.67(2) and (4).

9.3 Releasing Nonidentifying and Identifying Information

Except in the case of a step-parent or relative adoption, prior to placing a child for adoption, nonidentifying and identifying information must be compiled. The nonidentifying information must be provided to the prospective adoptive parent prior to placement of the child. MCL 710.27(1).*

*This nonidentifying information is listed in Section 4.6(G).

Except in cases of step-parent or relative adoption, identifying information must also be compiled by the parent, the guardian, the child placing agency, or the court that places a child for adoption.* However, this information is *not* provided to the prospective adoptive parent. MCL 710.27(6).

*See Section 4.6(G) for a list of this identifying information.

In direct placement adoptions, the parent or guardian may agree to exchange information pursuant to MCL 710.23a and MCL 710.23b.* MCL 710.27(7).

*See Section 8.1.

Both the nonidentifying and identifying information must be maintained by the child placing agency, the FIA, or the court that places the child. MCL 710.27(4). An employee or agent of a child placing agency, the FIA, or the court who intentionally destroys this information is guilty of a misdemeanor. MCL 710.27(4).

Note: If a child placing agency closes down, the adoption records must be forwarded to the FIA. MCL 710.27(5). The FIA website contains a listing of closed adoption agencies and provides information on which FIA office maintains the adoption records. See www.michigan.gov/fia/. (Last visited on June 23, 2003.)

9.4 Central Adoption Registry

MCL 710.27b requires the FIA to establish and maintain a central adoption registry to control the release of identifying information.

A. Consent to or Denial of Release of Identifying Information

1. Former Parents

Former parents may consent to or deny the release of identifying information. A former parent may also change his or her mind and revoke a consent to or denial of the release of identifying information. MCL 710.27a(1). The central adoption registry must keep the statements of former parents consenting to or denying the release of identifying information. MCL 710.27b(2).

The FIA is responsible for developing forms for former parents to use to consent, deny, or revoke a consent or denial. MCL 710.27b(3). The forms must include the current name and address of the former parent. The denial form must contain a space for the former parent to indicate, if he or she wishes, the reason why he or she does not want to be identified or contacted. MCL 710.27b(3). The FIA must make this form available to child placing agencies and the court. MCL 710.27b(3).

Note: The court generally provides these forms to the former parents at the time of termination of parental rights.

See Appendix K for the FIA form “Parent’s Consent/Denial to Release Information to Adult Adoptee.”

2. Adult Former Siblings

“Adult former sibling” is defined as “an individual who is 18 years of age or older and is related to an adult adoptee either biologically or through adoption

by at least 1 common parent, regardless of whether the adult former sibling ever lived in the same household as the adult adoptee.” MCL 710.22(c).

An adult former sibling may file a statement with the central adoption registry providing notice that a former parent is deceased. A copy of the former parent’s death certificate or other evidence of the former parent’s death must be attached to the statement. MCL 710.27a(2).

An adult former sibling, who knows the adoptee’s birth name, may file with the central adoption registry a statement consenting to the release of the adult former sibling’s name and address to the adult adoptee. The statement may be filed, updated, or revoked at any time. MCL 710.27a(3). The central adoption registry must keep the statements of adult former siblings. MCL 710.27b(2).

The FIA is responsible for developing forms for adult former siblings to use to provide notification of the death of a former parent and to consent to the release of the adult former sibling’s name and address to an adult adoptee. MCL 710.27b(3). The forms must include the current name and address of the adult former sibling. MCL 710.27b(3). The FIA must make this form available to child placing agencies and the court. MCL 710.27b(3).

See Appendix K for the FIA forms “Adult Former Sibling’s Statement to Release Information to Adult Adoptee” and “Release of Information to Adult Adoptee by Brother/Sister as Proxy for Deceased Parent.”

B. Clearance Request and Reply Forms

Clearance request and reply forms are forms to be used by child placing agencies and the court to request and receive information from the central adoption registry pursuant to MCL 710.68(5) and (8). MCL 710.27b(3). The FIA is responsible for developing and distributing clearance request forms. MCL 710.27b(3).

Upon Receipt of a Clearance Request Form. When the central adoption registry receives a clearance request form from a child placing agency or the court, pursuant to MCL 710.68(5), the central adoption agency must send the following information:

- ♦ a clearance reply form indicating whether a particular former parent has filed a statement either denying or consenting to the release of identifying information, and a copy of the statement of consent or denial, or
- ♦ a statement indicating that a former parent is deceased. MCL 710.27b(4).

If a former parent submits a statement consenting to the release of information or revoking a previous denial after the central adoption registry has received a request for information, the subsequent statement submitted by the former

parent must be sent to the agency or court that requested the information. MCL 710.27b(4).

9.5 Release of Nonidentifying and Identifying Information Pursuant to MCL 710.68

MCL 710.68 provides for the release of nonidentifying and identifying information based upon whether the former parents, former adult siblings, or adult adoptees have filed a consent to or denial of the release of identifying information. In *In re Dixon*, 116 Mich App 763, 767 (1982), the Court of Appeals indicated that the purpose of MCL 710.68 was “so that when all parties mutually consent to release identifying information, no other requirements need be met.”

Although the compilation of nonidentifying and identifying information* does not apply to step-parent or relative adoptions, the release of nonidentifying and identifying information applies to both step-parent and relative adoptions. MCL 710.68(17).

For the purposes of this section, “adult adoptee” is “an individual who was adopted as a child who is now 18 years of age or older or an individual who was 18 years of age or older at the time of adoption.” MCL 710.68(18).

A. Nonidentifying Information

Nonidentifying information must be released upon request. MCL 710.68(1) provides:

“Within 63 days after a request for nonidentifying information is received, a child placing agency, a court, or the [FIA] shall provide in writing to the adoptive parent, adult adoptee, former parent, or adult former sibling requesting the information all of the nonidentifying information described in [MCL 710.27(1) and (2)*].”

B. Identifying Information

Requests for identifying information may come from adult adoptees, former parents, or former adult siblings. Whether identifying information will be released pursuant to MCL 710.68 depends upon the consents or denials filed with the central adoption registry.

An adult adoptee, former parent, or an adult sibling may request adoption record information from a child placing agency or the FIA. If the child placing agency or the FIA holds the adoption record, it must provide the adult adoptee, former parent, or adult former sibling with the identity of the court that

*See Section 4.6(G) for information on compiling nonidentifying and identifying information.

*See Section 4.6(G) for a detailed list of the nonidentifying information required by MCL 710.27(1)–(2).

confirmed the adoption. This information must be provided within 28 days of receiving the request. MCL 710.68(3).

A former parent or adult former sibling may request that the court that terminated parental rights provide the identity of the agency, the court, or the individual FIA office to which the child was committed. The court must provide in writing the name of the agency, the court, or the FIA to which the child was committed within 28 days of receiving the request. MCL 710.68(4).

1. Release of Information to Adult Adoptee

An adult adoptee may request identifying information from a child placing agency, the court, or the FIA, from an adoption record in their possession. When a request is received, the child placing agency, the court, or the FIA must submit a clearance request form* to the central adoption registry. MCL 710.68(5). The central adoption registry will respond to the clearance request form with a clearance reply form. Within 28 days of receiving the clearance reply form, the child placing agency, the court, or the FIA must notify the adoptee in writing of the identifying information that the adoptee is entitled to pursuant to MCL 710.68(6)–(7), or if the identifying information cannot be released pursuant to MCL 710.68(6) or (7), the reason why the information cannot be released. MCL 710.68(5). The child placing agency, the court, or the FIA must retain a copy of the notice sent to the adult adoptee. MCL 710.68(5).

Adoptions Where the Termination of Parental Rights Occurred on or After May 28, 1945, but Prior to September 12, 1980.

If the former parents' rights were terminated on or after May 28, 1945, but before September 12, 1980, then a child placing agency, a court, or the FIA must release the identifying information to an adult adoptee or a confidential intermediary* as follows:

- ♦ If both former parents have filed consents or are deceased, all identifying information must be released. MCL 710.68(6)(a) and (d).
- ♦ If one former parent has filed a consent or is deceased, the following identifying information regarding that parent must be released:
 - the name of that biological parent at the time of termination of parental rights, and
 - the most recent name and address of that biological parent. MCL 710.68(6)(b)–(c).
- ♦ All of the identifying information must be released to a confidential intermediary, along with any additional information to assist the confidential intermediary in locating a former family member. The confidential intermediary must present a certified copy of the order appointing them as the confidential intermediary. The FIA or the child

*See Section 9.4(B) for information on clearance request forms.

*See Section 9.7 for information on a confidential intermediary.

placing agency may release the information to the court for release to the confidential intermediary. MCL 710.68(6)(e).

Adoptions Where the Termination of Parental Rights Occurred Before May 28, 1945, or on or After September 12, 1980.

Except as noted below, for all adoptions in which the former parents' rights were terminated before May 28, 1945, or on or after September 12, 1980, a child placing agency, a court, or the FIA must release to an adult adoptee the following identifying information:

- ♦ the name of the child before placement for adoption,
- ♦ the name of each biological parent at the time of termination of parental rights,
- ♦ the most recent name and address of each biological parent,
- ♦ the names of the biological siblings at the time of termination, and
- ♦ any additional information on file with the central adoption registry. MCL 710.68(7).

If a former parent has filed a statement currently in effect with the central adoption registry denying consent to have identifying information released, all of the foregoing information may be released, but the following identifying information must *not* be released:

- the name of that biological parent at the time of termination of parental rights, and
- the most recent name and address of that biological parent. MCL 710.68(7).

Pursuant to MCL 710.68(7), a denial of consent is not effective after the death of the former parent.

An adult adoptee may also obtain a copy of his or her original birth certificate if both of the former parents have not filed a denial of access to records. In order to obtain the birth certificate, the adult adoptee must request identifying information from the child placing agency, the court, or the FIA. Once the request is received, the child placing agency, the court or the FIA must request information from the central adoption registry. If the clearance reply form from the central adoption registry indicates that neither parent has filed a denial of access to records, then the adult adoptee must be given a copy of the clearance reply form. The adult adoptee may then use the clearance reply form to obtain his or her original birth certificate from the Department of Public Health. MCL 710.68(9).

Information Regarding an Adult Former Sibling. MCL 710.68(8) provides:

“Upon receipt of a written request from an adult adoptee for the name and address of an adult former sibling, a child placing agency, a court, or the [FIA], if it maintains the adoption file for that adoptee, shall submit a clearance request form to the central adoption registry. Within 28 days after receipt of a clearance reply form from the central adoption registry, the child placing agency, court, or [FIA] shall notify the adoptee in writing of the name and address of an adult former sibling whose statement was forwarded by the central adoption registry.”

2. Release of Information to Biological Parents and Adult Former Siblings

MCL 710.68(2) provides:

“Within 63 days after a request for identifying information about an adult adoptee is received, a child placing agency or court or the [FIA] shall provide in writing to the former parent or adult former sibling requesting the information the adult adoptee’s most recent name and address if the adult adoptee has given written consent to release of the information pursuant to this chapter. If the adult adoptee has not given written consent to the release of information, the child placing agency, the court, or the [FIA] shall, upon presentation of a certified copy of the order of appointment, give the adult adoptee’s name and address to a confidential intermediary* appointed under [MCL 710.68b], together with any other information in its possession that would help the confidential intermediary locate the adult adoptee. At the option of [the] agency or the [FIA], the information may be released to the court for release to the confidential intermediary.”

3. Medical Information

Life Threatening Information. Information and a request to transmit the information to an adoptee may be submitted to a child placing agency, a court, or the FIA concerning a medical or genetic condition of an individual related to an adoptee. The medical or genetic condition must be verified by a physician. If the medical or genetic condition poses a threat to the adoptee’s life, then the child placing agency, the court, or the FIA must send a written copy of the information to the adoptee. The information must be sent to the adoptee’s last known address via first-class mail within seven days after the request is received. If the adoptee is less than 18 years of age, the information must be sent to the adoptive parents at the last known address. MCL 710.68(10). If the information is returned undelivered, then the agency, court, or the FIA must make a reasonable effort to find the most recent address of

*See Section 9.7 for information on confidential intermediaries.

the adoptee or minor adoptee's parents and within 21 days after receiving the returned letter must send the information by first-class mail. MCL 710.68(11).

Note: MCL 710.68 does not indicate who may submit the information. If the information submitted concerns a life threatening physician-verified medical or genetic condition of an individual related to the adoptee, the child placing agency, the court, or the FIA must follow the procedure provided in MCL 710.68(10)–(11).

Information may also be submitted to the court regarding a medical condition that threatens the adoptee's life for which a biological relative may be able to provide life-saving aid. MCL 710.68(13) provides:

“If a child placing agency, a court, or the [FIA] receives written information concerning a physician-verified medical or genetic condition that threatens the life of an adoptee and for which a biologically related person could give life-saving aid, and receives a request from or on behalf of the adoptee that the information be transmitted, the child placing agency, court, or [FIA] shall send a written copy of the information by first-class mail within 7 days after the request is received to the biological parents or adult biological siblings of the adoptee at their last known address.”

If the information is returned undelivered, then the agency, court, or FIA must make a reasonable effort to find the most recent address of the biological parents or adult biological siblings and must again send the information by first-class mail within 21 days after receiving the returned letter. MCL 710.68(14).

Non-Life-Threatening Information. Information concerning a non-life-threatening medical or genetic condition of a person biologically related to the adoptee may be submitted to a child placing agency, court, or the FIA. The information must be in writing and the medical or genetic condition must be verified by a physician. The child placing agency, court, or the FIA that receives the information must place the information in the adoption file. MCL 710.68(12). If the child placing agency, the court, or the FIA receives a written request for the information from the adult adoptee or minor adoptee's adoptive parents, it must release a written copy of the information to the adult adoptee or to the minor adoptee's adoptive parents within 63 days after the request was made. MCL 710.68(12).

*See Section 6.5 for information on new birth certificates.

4. Notification to the Department of Public Health

If a child placing agency, the court, or the FIA provides an adoptee with the name of *one* of the adoptee's former parents, then the child placing agency, the court, or the FIA must notify the Department of Public Health that the information has been released. When the Department of Public Health receives the notice, it must insure that the adoptee's original birth certificate has been sealed and that a new birth certificate has been prepared in conformance with MCL 710.67.* MCL 710.68(15).

5. Violations of MCL 710.68

MCL 710.68(16) provides:

“An employee or agent of a child placing agency, a court, or the [FIA], who intentionally releases identifying information in violation of this section, is guilty of a misdemeanor.”

6. Fees

A child placing agency, court, or the FIA may require a fee for supplying information pursuant to MCL 710.68. The fee may be the actual cost of supplying the information or \$60.00, whichever is less. MCL 710.68(19). The child placing agency, the court, or the FIA may waive all or a part of the fee in cases of indigency or hardship. MCL 710.68(19).

7. Direct Descendant of an Adult Adoptee

MCL 710.68(20) provides:

“A direct descendant of a deceased adult adoptee may request information pursuant to [MCL 710.68]. All information to which an adult adoptee is entitled pursuant to this section shall be released to the adult adoptee's direct descendants if the adult adoptee is deceased.”

8. Ombudsman

A child placing agency, a court, or the FIA must allow the children's ombudsman to inspect adoption records in connection with an investigation authorized under the Children's Ombudsman Act, MCL 722.921 et seq. MCL 710.68(21).

9.6 Release of Identifying Information for “Good Cause”

A petitioner who is unable to obtain adoption information pursuant to MCL 710.68 may file a petition for inspection of adoption records. MCL 710.67(1) and *In re Creed*, 126 Mich App 32, 37 (1983).

A. Petition for Inspection or Copying of Adoption Records

A petitioner may file a sworn petition requesting inspection of an adoption record 21 days after the entry of a final order of adoption. The petition must set forth the purpose of the inspection. MCL 710.67(1).

The court may order notice and a hearing on the petition. MCL 710.27(1). Upon a showing of “good cause,” the court may grant the petition. MCL 710.27(1).

The court must grant or deny the petition in writing within 63 days after the petition is filed, except that for good cause the court may grant or deny the petition after the 63-day period but not later than 182 days after the petition is filed. MCL 710.27(1).

B. “Good Cause”

The Adoption Code does not define “good cause.” The following cases may be of some guidance in determining what constitutes “good cause.”

♦ *In re Dixon*, 116 Mich App 763 (1982)

In *Dixon*, the Michigan Court of Appeals stated the following:

“The good cause determination requires a balancing of the adoptee’s interests, the biological parents’ interest, and the state’s interest. It can also be argued that the adopting parents’ interests should be considered.

. . . It is the biological parents’ right to privacy which is to be considered by the court. This broad term includes a range of positions from the desire not to be emotionally upset or socially embarrassed to a constitutionally recognized ‘right to be let alone’.

. . . The state’s primary concern [is] ‘to protect and foster an effective scheme for adoption’ . . .

The final interest which must be plugged into the good cause equation is that of the adoptee. This interest has generally been recognized as the most important. Compelling medical reasons have constituted good cause for unlocking adoption records. Psychological reasons have also been sufficient on occasion to open the records. Courts are reluctant, however, to disclose when ‘little more than a thinly supported claim of a ‘psychological need to know’ is put forth.” [Internal citations omitted.] 116 Mich App at 768-70.

In *Dixon*, an adult adoptee petitioned the court for release of adoption records to enable her to determine the identity of her biological parents. 116 Mich App

at 765. At the hearing on the petition, the appellant testified that she suffers from severe depression that she attributed, in part, to the absence of information concerning her biological parents. Her psychiatrist provided an unsworn statement indicating that the petitioner's depression had resulted in several suicide attempts and hospitalizations. 116 Mich App at 766. After the hearing, the trial court denied the release of identifying information. 116 Mich App at 765. The Court of Appeals indicated that on occasion psychological reasons have been sufficient to open adoption records. 116 Mich App at 770. However, the Court upheld the denial of access to the records and indicated that based upon the record, there was no abuse of discretion by the trial court. 116 Mich App at 771.

The Court of Appeals' decision was appealed to the Michigan Supreme Court. The Michigan Supreme Court did not grant leave to appeal but remanded the case to the trial court for a hearing to determine "good cause." The Michigan Supreme Court also ordered the trial court to appoint a guardian ad litem to represent the anonymous biological parents opposing disclosure. *In re Dixon*, 417 Mich 986 (1983).

♦ ***In re Dodge Estate*, 162 Mich App 573 (1987)**

In *Dodge*, the petitioner, an adult adoptee, filed a petition for production and inspection of adoption records. The petitioner alleged that the information was necessary to prove her claim to the estate of her possible deceased biological father.* 162 Mich App at 577-78. The petitioner also alleged a psychological need to know. 162 Mich App at 584. The trial court dismissed the petition after determining that if the adoption information was released, it would not prove her claim to her biological father's estate because the claim to the estate was untimely. 162 Mich App at 578-79. The Court of Appeals reversed the dismissal and indicated:

"Both this Court and the Michigan Supreme Court have held that psychological need may establish good cause. *In re Dixon*, 116 Mich App 763, 770; 323 NW2d 549 (1982), remanded for hearing 417 Mich 986 (1983). [The petitioner] has pled an 'intense' psychological need. Therefore, in accordance with *Dixon*, she is entitled to a hearing in which she may establish her psychological need for the records." 162 Mich App at 584.

♦ ***In re Creed*, 126 Mich App 32 (1983)**

In *Creed*, the petitioners were a husband and wife that filed a petition for the release of adoption records. The female petitioner was raped which resulted in the conception of the adoptee. The petitioners never reported the rape to the authorities. 126 Mich App at 33. When the child was born, the petitioners released the child for adoption and were told that their identity would remain confidential. Twenty-two years later, the petitioners were contacted by a 22-year-old male who identified himself as the son they had given up for adoption. He informed the petitioners that his adoptive mother had given him a copy of the adoption records. 126 Mich App at 34. The petitioners claimed

*The petitioner had also filed a petition for determination of heirs on her alleged biological father's estate. 162 Mich App at 576.

that the information in the adoption records should not have been disclosed and as a result of the disclosure they suffered severe emotional distress. 126 Mich App at 34. The petitioners filed a petition to release the adoption records in order to determine if the prior release of the adoption records was improper. 126 Mich App at 34. The trial court indicated that MCL 710.68 created an absolute privilege preventing the disclosure of identifying information concerning the adopted child and the adoptive parents unless consent is given as required in MCL 710.68. The trial court ruled that because the petitioners had not obtained the required consent, the petition for release of information had to be denied. 126 Mich App at 34. The petitioners appealed the denial to the Court of Appeals. The Court of Appeals held that if the information cannot be released under MCL 710.68, the petitioners may still file a petition for the release of identifying information, and, upon a showing of “good cause,” the information may be released. The Court of Appeals stated:

“We find the reasoning of *Dixon, supra*, persuasive and conclude that the [court] erred in ruling that petitioners were absolutely barred from obtaining this information without first obtaining the adoptee’s consent to its release. Therefore, we remand the case to that court for a determination concerning whether good cause exists for the release of this information.” 126 Mich App at 37.

On remand the trial court found “good cause” to release the adoption records and that holding was affirmed by the Michigan Court of Appeals in *In re Creed*, 128 Mich App 710, 711 (1983).

♦ ***In re Hanson*, 188 Mich App 392 (1991)**

In *Hanson*, the petitioner, an adult adoptee, filed a petition to release identifying information. 188 Mich App at 394. In support of her request, the petitioner alleged that she may have Indian ancestry that would make her eligible for a tuition waiver program, as well as several social and economic benefits under federal law. 188 Mich App at 394. The trial court held a hearing and determined that the petitioner had not demonstrated “good cause” for release of the information. 188 Mich App at 394. The petitioner then filed an appeal. While the appeal was pending, the petitioner learned the identity of her biological mother and met with her. Her biological mother signed a consent to release identifying information. However, the petitioner still lacked sufficient documentation to prove her tribal affiliation. 188 Mich App at 394. The Court of Appeals reversed the trial court and held:

“[W]e hold that, in light of the express policy of the ICWA* as set forth in 25 USC 1902, ‘to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families,’ petitioner has demonstrated good cause as a matter of law for the release of any information regarding her biological mother which could assist in establishing her tribal affiliation.” 188 Mich App at 397.

*ICWA is the Indian Child Welfare Act. See Chapter 11 for more information on ICWA.

9.7 Confidential Intermediaries

Confidential intermediaries are individuals appointed by the court to search for and contact former family members, adult adoptees, or adult children of deceased adult adoptees. MCL 710.68b(2). The following individuals may file a petition to appoint a confidential intermediary in the court where the final order of adoption was entered:

- ♦ an adult adoptee,
- ♦ an adoptive parent of a minor adoptee,
- ♦ an adult child of a deceased adoptee,
- ♦ a former family member. MCL 710.68b(2).

A “former family member” means “a parent, grandparent, or adult sibling related to the adult adoptee through birth or adoption by at least 1 common parent, regardless of whether the adult adoptee ever lived in the same household as the former family member.” MCL 710.68b(1)(a).

See Appendix B for the SCAO form “Petition and Order to Appoint Confidential Intermediary.”

Court Responsibility. Once the court receives a petition to appoint a confidential intermediary, the court must contact the central adoption registry to determine whether there is currently a statement from the individual being sought that denies consent to the release of identifying information. MCL 710.68b(2). If there is no denial of consent for that individual, the court must appoint in writing a confidential intermediary who meets the requirements of MCL 710.68b(3). MCL 710.68b(2).

The court must provide the confidential intermediary with a certified copy of the order of appointment. MCL 710.68b(2).

A. Qualifications

An individual may serve as a confidential intermediary if he or she is approved by the court after completing training and filing an oath of confidentiality with the court. MCL 710.68b(3).

Note: The Confidential Intermediary Advisory Coalition (CIAC) was formed in 1995 to train and certify individuals as confidential intermediaries. Information regarding the CIAC may be obtained through Child and Family Services at 1-800-878-6587.

MCL 710.68b(3) requires the oath of confidentiality to be substantially as follows:

“I, _____, signing under penalty of perjury, affirm all of the following:

“(a) I will not disclose to a petitioner, directly or indirectly, any identifying information in sealed records without written consent of the individual to whom the information pertains.

“(b) I will conduct a reasonable search for an individual being sought. I will make a discreet and confidential inquiry as to whether the individual consents to the release of information to the petitioner, or to meeting or communicating with the petitioner, and I will report to the petitioner and the court the results of my search and inquiry.

“(c) If the petitioner and the individual being sought consent in writing to meet or communicate with each other, I will act in accordance with the instructions of those persons and, if applicable, the instructions of the court to facilitate any meeting or communication between them.

“(d) I will not charge or accept any fee* for my services except for reimbursement from the petitioner for actual expenses incurred in performing my services, or as authorized by the court.

“(e) I recognize that I may be subject to contempt of court sanctions and dismissal by the court if I permit the release of confidential information without authorization.”

*See Section 9.7(C) for information on compensation for a confidential intermediary.

B. Responsibilities

MCL 710.68b(4) provides:

“(4) A confidential intermediary shall make a reasonable search for an individual whose identity is sought by a petitioner under this section. The confidential intermediary shall first search the court records. If it is necessary to obtain information from an agency or the [FIA], the confidential intermediary shall provide a certified copy of the order of appointment to the agency or the [FIA] before requesting the records. If the confidential intermediary locates the individual being sought, the intermediary shall discreetly and confidentially contact the individual to ascertain whether the individual is willing to release information to the petitioner or to meet or communicate with the petitioner. If the individual

consents in writing to the release of information, the intermediary shall release the information to the petitioner. Upon the mutual written consent of the petitioner and the individual, the intermediary may facilitate a meeting or other communication between the petitioner and the individual. If the individual refuses to authorize the release of information sought by the petitioner, the intermediary shall report the refusal to the petitioner and the court. If an individual sought under this section is deceased, the intermediary shall report that fact to the petitioner and the court.”

C. Compensation

A confidential intermediary may only receive a reasonable fee approved by the court and reimbursement for actual expenses incurred in performing his or her responsibilities as a confidential intermediary. The confidential intermediary must not request or accept any money or other thing of value for performing his or her duties as a confidential intermediary. MCL 710.68b(5).

See Appendix B for the SCAO form “Petition and Order for Approval of Confidential Intermediary Fee.”

D. Failure to Contact a Former Family Member

If the confidential intermediary has failed to contact a former family member within six months after his or her appointment, the adult adoptee may petition the court for the release of information described in MCL 710.27(3) and any additional information obtained by the confidential intermediary. MCL 710.68b(6).

The information described in MCL 710.27(3) includes the name of the child before placement in adoption, the name of each biological parent at the time of termination of parental rights, the most recent name and address of each biological parent, and the names of the biological siblings at the time of termination.

MCL 710.68b(6) provides that “before a hearing on the petition, the confidential intermediary shall submit a written report to the court describing all efforts made to locate the former family member and all information obtained. After the hearing, the court shall do 1 of the following:

- (a) Order the confidential intermediary to search for another 6-month period.
- (b) Appoint a new confidential intermediary to search for a 6-month period.

(c) Release to the adult adoptee the identifying information described in [MCL 710.27(3)] and any other information that the court considers appropriate, if the court finds that a diligent search has been made and that there is good cause* to release the information. The court's finding shall be made on the record."

*See Section 9.6 for a discussion of "good cause."

E. Dismissal of Confidential Intermediary

The court may dismiss a confidential intermediary if the intermediary engages in conduct that violates professional or ethical standards. MCL 710.68b(2).

The court may also hold a confidential intermediary in contempt of court for releasing identifying information without authorization. MCL 710.68b(3).